

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JAMES M. LEDAKIS, State Bar No. 132645
Supervising Deputy Attorney General
3 BLANCA I. LOPEZ,
Senior Legal Analyst
4 California Department of Justice
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
6 P.O. Box 85266
San Diego, CA 92186-5266
7 Telephone: (619) 645-3037
Facsimile: (619) 645-2061
8
9 Attorneys for Complainant

10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2008-322

14 **BAIRBRE M. WALSH**
5015 Santa Cruz Avenue, Unit 209
15 San Diego, California 92107

A C C U S A T I O N

16 Registered Nurse License No. 379152

17 Respondent.

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19 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

20 **PARTIES**

- 21 1. Complainant brings this Accusation solely in her official capacity as the
22 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
23 Affairs.
24 2. On or about September 30, 1984, the Board issued Registered Nurse
25 License Number 379152 to BAIRBRE M. WALSH ("Respondent"). The license will expire on
26 April 30, 2010, unless renewed.

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1 (b) Use any controlled substance as defined in Division 10 (commencing with
2 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
3 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
4 injurious to himself or herself, any other person, or the public or to the extent that such use
5 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
6 license.

7 (e) Falsify or make grossly incorrect, grossly inconsistent, or unintelligible entries
8 in any hospital, patient, or other record pertaining to the substances described in subdivision (a)
9 of this section."

10 8. Code section 4060 states, in pertinent part, that no person shall possess any
11 controlled substance, except that furnished to a person upon the prescription of a physician,
12 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor.

13 COST RECOVERY

14 9. Code section 125.3 provides, in pertinent part, that the Board may request
15 the administrative law judge to direct a licensee found to have committed a violation or
16 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
17 and enforcement of the case.

18 DRUGS

19 10. "Dilaudid," a brand of hydromorphone, is a Schedule II controlled
20 substance as designated by Health and Safety Code section 11055(b)(1)(K).

21 11. "Demerol," a brand of meperidine hydrochloride, a derivative of pethidine,
22 is a Schedule II controlled substance as designated by Health and Safety Code section
23 11055(c)(17).

24 12. "Vicodin" is a compound consisting of 5 mg. hydrocodone bitartrate also
25 known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and
26 Safety Code section 11056(e)(4), and 500 mg. acetaminophen per tablet.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Obtained, Possessed and Self Administered Controlled Substances)**

3 12. Respondent is subject to discipline under Code section 2761(a), on the
4 grounds of unprofessional conduct as defined in Code section 2762(a), in that between
5 July 1, 2005, and August 7, 2005, while employed as a registered nurse at Scripps Memorial
6 Hospital, located in La Jolla, California, Respondent did the following:

7 a. Obtained Dilaudid, Demerol, and Vicodin, controlled substances, by fraud,
8 deceit, misrepresentation or subterfuge or by the concealment of a material fact, in violation of
9 Health and Safety Code section 11173(a), by signing out medication for administration to various
10 patients and taking it for her own personal use.

11 b. Possessed Dilaudid, Demerol, and Vicodin, all controlled substances, in
12 violation of Code section 4060, in that Respondent did not have a prescription for those
13 controlled substances.

14 c. Self-administered Dilaudid, Demerol, and Vicodin, all controlled substances,
15 without direction to do so from a licensed physician and surgeon, dentist or podiatrist.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Falsified, Made Incorrect or Inconsistent Entries In Hospital or Patient Records)**

18 13. Respondent is subject to discipline under Code section 2761(a), on the
19 grounds of unprofessional conduct, as defined in Code section 2762(e), in that between
20 July 1, 2005, and August 7, 2005, while employed as a registered nurse at Scripps Memorial
21 Hospital, located in La Jolla, California, Respondent falsified, made grossly incorrect, grossly
22 inconsistent or unintelligible entries in hospital or patient records in the following respects:

23 **Patient #2:**

24 a. On or about July 1, 2005, at 2009 hours, Respondent withdrew a 2 mg.
25 vial of Dilaudid. Respondent charted the administration of the medication at 1952 hours, which
26 is approximately 17 minutes prior to withdrawing the medication. Furthermore, Respondent
27 failed to document the administration of the medication in the nursing notes.

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1 **Patient #3:**

2 b. On or about July 9, 2005, at 0749 hours, Respondent withdrew a 2 mg.
3 vial of Dilaudid. Respondent wasted 0.5 mg. of medication at 0758 hours, but failed to account
4 for the disposition of the remaining 1.5 mg. of medication in any hospital or patient record.

5 **Patient #6:**

6 c. On or about July 23, 2005, at 1645 hours, Respondent withdrew a 2 mg.
7 vial of Dilaudid. Respondent wasted 0.2 mg. of medication at 1715 hours, and charted
8 administering 0.5 mg. of medication at 1230 hours and 1530 hours, but failed to document the
9 administration of the medication in the nursing notes, and failed to account for the disposition of
10 the remaining 0.8 mg. of medication. Furthermore, the signing out of the medication for
11 administration was inconsistent with physician's orders, which did not call for the administration
12 of that medication.

13 **Patient #9**

14 d. On or about July 28, 2005, at 1719 hours, Respondent withdrew a 2 mg.
15 vial of Dilaudid. Respondent documented wasting 1.5 mg. of medication, but failed to account
16 for the disposition of the remaining 0.5 mg. of medication in any hospital or patient record.

17 e. On or about July 28, 2005, at 1853 hours, Respondent withdrew a 2 mg.
18 vial of Dilaudid. Respondent documented wasting 1.5 mg. of medication, but failed to account
19 for the disposition of the remaining 0.5 mg. of medication in any hospital or patient record.

20 **Patient #10**

21 f. On or about August 6, 2005, at 0902 hours, Respondent withdrew a 2 mg.
22 vial of Dilaudid. Respondent documented wasting 1.75 mg. of medication, but failed to account
23 for the disposition of the remaining 0.25 mg. of medication in any hospital or patient record.

24 g. On or about August 6, 2005, at 1457 hours, Respondent withdrew a 2 mg.
25 vial of Dilaudid. Respondent documented wasting 1.75 mg. of medication, but failed to account
26 for the disposition of the remaining 0.25 mg. of medication in any hospital or patient record.

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1 **Patient #11**

2 h. On or about August 6, 2005, at 1536 hours, Respondent withdrew a
3 50 mg. vial of Demerol. Respondent documented wasting .25 mg. of medication, and she
4 charted the administration of the remaining medication on the patient Medication Administration
5 Record, but failed to document the administration of the medication in the nursing notes.

6 **Patient #12**

7 i. On or about August 6, 2005, at 1516 hours, Respondent withdrew two
8 Vicodin tablets, but failed to account for the disposition of the medication in any hospital or
9 patient record.

10 **Patient #13**

11 j. On or about August 7, 2005, at 1220 hours, Respondent withdrew a 2 mg.
12 vial of Dilaudid. Respondent charted the administration of .50 mg. of medication at 1240 hours,
13 but failed to waste the remaining 1.5 mg. of medication until 1417 hours, which is one hour and
14 57 minutes after withdrawing the medication.

15 k. On or about August 7, 2005, at 1738 hours, Respondent withdrew a 2 mg.
16 vial of Dilaudid. Respondent documented wasting 1.5 mg. of medication, but failed to account
17 for the disposition of the remaining .50 mg. of medication in any hospital or patient record.

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1 PRAYER


2 WHEREFORE, Complainant requests that a hearing be held on the matters
3 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 379152, issued
5 to Bairbre M. Walsh;

6 2. Ordering Bairbre M. Walsh to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3; and,

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: 5/16/08

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12 RUTH ANN TERRY, M.P.H., R.N.
13 Executive Officer
14 Board of Registered Nursing
15 Department of Consumer Affairs
16 State of California
17 Complainant
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